

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:05CV282

**TRANSYLVANIA COUNTY, a Body)
Politic of North Carolina,)**

Plaintiff,)

Vs.)

ORDER

**LINCOLN GENERAL INSURANCE)
COMPANY; CRAWFORD &)
COMPANY WORLDWIDE;)
CRAWFORD & COMPANY)
CANADA; CRAWFORD &)
COMPANY INTERNATIONAL, N.A.;)
A. M. (Tony) DiGERONIMO; and)
NATIONAL SURETY SERVICES,)
INC.,)**

Defendants.)

_____)

THIS MATTER is before the Court on the Magistrate Judge's
Memorandum and Recommendation, filed September 29, 2005.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation
of this Court, United States Magistrate Judge Dennis L. Howell, was

designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On September 29, 2005, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the Crawford Defendants' motion to dismiss and the motion to dismiss filed by Defendant Lincoln General Insurance Company. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on October 17, 2005. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendations that the Crawford Defendants' motion be granted and those Defendants dismissed from the action, and Defendant Lincoln General's motion to dismiss be granted, and Plaintiff's claims contained in paragraphs 45-54 of the complaint be dismissed for failure to state a claim.

IT IS, THEREFORE, ORDERED that the motion of Defendants Crawford & Company Worldwide, Crawford & Company Canada, and Crawford & Company International (the Crawford Defendants) to dismiss is **ALLOWED**, and the Plaintiff's claims against those Defendants are hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the motion of Defendant Lincoln General Insurance Company to dismiss is **ALLOWED**, and Plaintiff's claims for unfair business practices (¶¶ 45-48 of the Complaint) and for "breach of good faith and fair dealing" (¶¶ 49-54 of the Complaint) are hereby **DISMISSED WITH PREJUDICE** for failure to state a claim.

Signed: November 7, 2005

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

